THE HONORABLE JOHN H. CHUN

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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11   SONNY JOYCE, Individually and On
Behalf of All Others Similarly Situated,

12   Plaintiff,   No.: 2:22-cv-00617-JHC

13   v.

14   AMAZON.COM, INC., ANDREW R.   **NOTICE OF MOTION AND MOTION**
JASSY, JEFFREY P. BEZOS, BRIAN T.   **OF JERRY HANNAH FOR**
15   OLSAVKSY, DAVID A. ZAPOLSKY,   **APPOINTMENT AS LEAD**
and, NATE SUTTON,   **PLAINTIFF AND APPROVAL OF**
16   **LEAD AND LIAISON COUNSEL AND**
                                               MEMORANDUM OF POINTS AND
17   Defendants.   **AUTHORIES IN SUPPORT**

18   NOTE ON MOTION CALENDAR:
                                               July 22, 2022

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28   Jerry Hannah's Motion for Appointment of Lead   TERRELL MARSHALL LAW GROUP PLLC
Plaintiff, Lead and Liaison Counsel   936 N. 34th Street, Suite 300
                                                  Seattle, Washington 98103
                                                  (206) 816-6603

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TABLE OF AUTHORITIES

1   **PLEASE TAKE NOTICE** that on a date and time as may be set by the Court, Jerry

2 Hannah ("Movant"), will respectfully move this Court, pursuant to Section 21D(a)(3)(B) of the

3 Securities Exchange Act of 1934 ("Exchange Act"), as amended by the Private Securities

4 Litigation Reform Act of 1995 (the "PSLRA"), 15 U.S.C. § 78u-4(a)(3)(B), for entry of an Order

5 (1) appointing Movant as Lead Plaintiff; and (2) approving Movant's selection of the law firm of

6 Faruqi & Faruqi, LLP (the "Faruqi Firm") as Lead Counsel and Terrell Marshall Law Group

7 PLLC ("Terrell Marshall") as Liaison Counsel for the putative class (the "Class").

8   This motion is based on the accompanying Memorandum of Law in support hereof, the

9 Declaration of Adrienne McEntee and exhibits filed therewith, the pleadings and other filings

10 herein, and such other written and oral argument as may be permitted by the Court.

11   For the foregoing reasons, Movant respectfully requests that the Court: (1) appoint

12 Movant as Lead Plaintiff pursuant to the PSLRA; (2) approve the Faruqi Firm as Lead Counsel

13 and Terrell Marshall as Liaison Counsel for the Class; and (3) grant such other and further relief

14 as the Court may deem just and proper.

15 <div align="center">**MEMORANDUM OF LAW**</div>

16 <div align="center">**NATURE AND STAGE OF THE PROCEEDINGS**</div>

17   The Action presently pending before this Court is brought on behalf of those who

18 purchased or otherwise acquired Amazon.com, Inc. ("Amazon" or the "Company") stock

19 between February 1, 2019 and April 5, 2022, both dates inclusive (the "Class Period"), which

20 seeks to recover damages caused by defendants' violations of the Exchange Act.

21   With respect to the appointment of a lead plaintiff to oversee the Action, Congress

22 established a presumption in the PSLRA that requires the Court to appoint the "most adequate

23 plaintiff" as the lead plaintiff for the Action. 15 U.S.C. § 78u-4(a)(3)(B)(i). The "most adequate

24 plaintiff" is the person who has the "largest financial interest in the relief" and who also satisfies

25 Rule 23's typicality and adequacy requirements for class representatives. *See* 15 U.S.C. § 78u-

26 4(a)(3)(B)(iii)(I).

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1   With losses of $165,111.09 Movant, to the best of counsel's knowledge, has the largest

2 financial interest in the litigation of any movant. Movant also satisfies Rule 23's typicality and

3 adequacy requirements. Movant's claims are typical of the Class's claims because he suffered

4 losses on his Amazon investment as a result of Defendants' false and misleading statements.

5 Further, Movant has no conflict with the Class and will adequately protect the Class's interests

6 given his significant stake in the litigation and his conduct to date in prosecuting the litigation,

7 including his submission of the requisite certification and selection of experienced class counsel.

8 Accordingly, Movant is the presumptive Lead Plaintiff.

9   Lastly, if appointed Lead Plaintiff, Movant is entitled to select, subject to the Court's

10 approval, lead counsel to represent the Class. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v). Movant has

11 engaged the Faruqi Firm for this purpose. The Faruqi Firm is an appropriate selection to serve as

12 Lead Counsel because it is a highly experienced firm with substantial securities class action

13 experience and Terrell Marshall is an appropriate selection to serve as Liaison Counsel because it

14 specializes in class action litigation and has substantial experience in securities litigation.

15   For the reasons summarized above and those explained more fully below, Movant's

16 motion should be granted in its entirety.

17   **SUMMARY OF ALLEGATIONS**

18   The complaint alleges that Amazon failed to disclose that: (1) the Company engaged in

19 anticompetitive conduct in its private-label business practice, including giving Amazon products

20 preference over those of its competitors and using third-party sellers' non-public data to compete

21 with them; (2) that the foregoing exposed Amazon to a heightened risk of regulatory scrutiny

22 and/or enforcement actions; (3) that Amazon's revenues derived from its private-label business

23 were in part the product of impermissible conduct and thus unsustainable; and (4) as a result,

24 Defendants' public statements throughout the Class Period were materially false and/or

25 misleading. ¶ 58.[1]

26 _____

27 [1]   Unless stated otherwise, all ¶ __ reference are to the Class Action Complaint (ECF No. 1).

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1   The Class Period begins on February 1, 2019, when Amazon filed its Annual Report on

2   Form 10-K for the year ended 2018. ¶ 28. The Annual Report contained generic, highly general

3   risk disclaimers, warning investors that Amazon was "subject to general business regulations and

4   laws, as well as regulations and laws specifically governing the Internet[] [and] e-commerce"

5   and that these laws covered competition, among other things. *Id*. Additionally, the Annual

6   Report advised Amazon investors that "[e]xisting and future laws and regulations may impede

7   our growth" and allegedly failed to disclose specific and known risks from the Company's

8   anticompetitive business practices. *Id*.

9   On April 25, 2019, Amazon hosted an earnings call to discuss the Company's first

10   quarter 2019 financial results. ¶ 31. During the call, Defendant Brian T. Olsavsky ("Olsavsky"),

11   Amazon's CFO, was asked about Amazon's efforts to sustain its growth rate in the third-party

12   marketplace business. *Id*. Olsavsky represented that Amazon was indifferent as to whether

13   products were sold by the Company or third parties and that the Company was focused on

14   providing customers the broadest selection of goods possible. *Id*.

15   On or around June 3, 2019, the House Judiciary Committee initiated a bi-partisan

16   investigation into the state of online competition. ¶ 32. The Subcommittee investigation

17   examined the business practices and market dominance of several large online companies,

18   including Amazon. *Id*. The Subcommittee held several oversight hearings in which various

19   officers of the companies, including Amazon, offered witness testimony on topics such as market

20   power on the press, innovation, privacy, and market dominance. ¶ 33. After each hearing,

21   Subcommittee members submitted questions for the record to the witnesses. *Id*.

22   On July 16, 2019, Defendant Nate Sutton ("Sutton"), Amazon's Associate General

23   Counsel, testified before the House Judiciary Committee alongside executives from several other

24   internet companies. ¶ 34. Sutton was asked directly whether Amazon tracked data and created

25   products to compete directly with popular brands. *Id*. Sutton denied that Amazon used any

26   specific seller data when creating its private label products. *Id*. During the same hearing, Sutton

27   was asked whether Amazon's algorithm for collecting data was used to support the sale of

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1   Amazon products. ¶ 35. Sutton responded that the Company's algorithm was aimed at predicting

2   what customers wanted to purchase and was applied equally between third-party sellers and

3   Amazon products. *Id.*

4   As the investigation proceeded, several media outlets published reports that contradicted

5   Amazon witness testimony. ¶ 36. For example, on July 18, 2019, *Capitol Forum* published an

6   article entitled, "Amazon: Former Employee Challenges Executive's Denial About Company's

7   Use of Independent Sellers' Data." The former employee stated that Amazon "routinely tracked

8   the popularity of independent sellers' products sold through its website," and that "[the former

9   employee] used to pull sellers' data to look at what the best products were [. . . .]" *Id.*

10   On July 26, 2019, Defendant David A. Zapolsky ("Zapolsky"), Amazon's General

11 Counsel, sent a letter to the House Judiciary Committee in response to the July 23, 2019 letter. ¶

12 39. Zapolsky's letter stated that the Company prohibited the use of data related to individual

13 sellers in its private label strategy, but that the Company did aggregate stored data to identify

14 categories and products with high customer demand. *Id.* The letter further represented that the

15 Company's algorithm did not favor any particular type of product offer. *Id.*

16   On October 24, 2019, Amazon held an earnings call to discuss the Company's third

17 quarter 2019 financial results. ¶ 40. During the call, Olsavsky was asked to comment on the

18 opportunities and competitiveness for third-party sellers. *Id.* Olsavsky responded that the

19 Company only succeeds if third party sellers succeed and touted the company's investment in

20 products and features to assist third party sellers. *Id.*

21   On May 1, 2020, members of the Subcommittee sent Defendant Jeff Bezos ("Bezos"),

22 Amazon's then-CEO, a letter in response to an April 23, 2020 *Wall Street Journal* article which

23 alleged that Amazon employees used sensitive business information from third-party sellers on

24 its platform to develop competing products. ¶ 44. Bezos responded in a letter dated May 15,

25 2020. ¶ 45. The letter represented, in sum and substance, that Amazon went above and beyond

26 what was legally required to protect the data of third-party sellers. Bezos also reiterated that the

27 use of third-party data to assist with Amazon's private brands was against Company policy. *Id.*

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On July 29, 2020, Bezos testified before the Subcommittee. ¶ 46. During the hearing, he was asked whether Amazon "ever access[ed] and use[d] third-party seller data when making business decisions[.]" *Id*. Bezos responded, in relevant part, that he could not give a yes or no answer to the question. *Id*. Instead, he reiterated that the use of third-party data to aid Amazon's private label business was against Company policy. *Id*.

On September 4, 2020, Amazon submitted responses to the Subcommittee's post-hearing requests. ¶ 47. With regard to requests related to Amazon employees' access to third-party seller data, Amazon stated that it first learned about alleged violations of Company policy from the *Wall Street Journal* article. *Id*. Then, on October 4, 2020, Amazon sent a letter to the Subcommittee to follow up on questions related to Amazon's Seller Data Protection Policy. ¶ 48. The Company stated that its internal investigation into allegations that the policy was violated by employees was complete. *Id*. The letter stated that there was some confusion about Amazon's use of its own store data, stating that Amazon policy does allow the access and analysis of aggregate seller data. *Id*.

On February 3, 2021, the Company filed its Annual Report on Form 10-K (the "2020 10-K"). ¶ 49. The 2020 Form 10-K failed to disclose that Amazon was engaged in anticompetitive conduct with respect to its private label business. *Id*. Instead, the report contained generic, boilerplate risk disclosures. *Id*.

On October 18, 2021, members of the Subcommittee sent Amazon a letter in response to "recent, credible reporting that directly contradicts the sworn testimony and representations of Amazon's top executives—including former CEO Jeffrey Bezos—to the Committee about their company's business practices during our investigation last Congress." ¶ 52. The letter informed the Company that the Subcommittee was giving Amazon a final opportunity to provide exculpatory evidence. *Id*.

On November 1, 2021, Amazon sent a letter responding to the October 18, 2021, letter. ¶ 53. The letter stated that Amazon "ha[d] cooperated fully with the Committee's inquiries and engaged in good faith through this process, and the resulting record fully supports the

1 transparency, candor, accuracy, and truthfulness of all our statements including the topics raised

2 in your letter," and that the Company "ha[d] in no way lied or misled the Committee, and any

3 allegation to the contrary is false and unsupported." *Id*.

4   On February 3, 2022, Amazon hosted an earnings call to discuss its fourth quarter 2021

5 financial results. ¶ 54. On the call, Defendant Olsavsky was asked to discuss why third-party

6 seller services experienced less growth. *Id*. Olsavsky responded by stating, among other things,

7 that the Company continued to invest to help third-party sellers be successful. *Id*.

8   On March 9, 2022, media outlets reported that members of the House Judiciary

9 Committee had requested that the Department of Justice ("DOJ") open a criminal investigation

10 into Amazon and certain executives for lying to Congress. ¶ 59. In response, Amazon asserted

11 that there was "no factual basis" for the House Judiciary Committee's allegations. ¶ 60.

12   Then, on April 6, 2022, *The Wall Street Journal* published an article entitled "SEC Is

13 Investigating How Amazon Disclosed Business Practices." ¶ 61. The article stated that federal

14 regulators were investigating how Amazon disclosed details of its business practices, including

15 how the Company uses third-party seller data in its private-label businesses. *Id*. On this news,

16 Amazon's stock price fell $105.98 per share, or 3.2%, injuring investors. ¶ 62.

17 <div align="center">**ARGUMENT**</div>

18 **I.**   **MOVANT IS ENTITLED TO BE APPOINTED LEAD PLAINTIFF FOR THE**
19   **CLASS**

20   **A.**   **The PSLRA Standard For Appointing Lead Plaintiff**

21   The PSLRA governs the appointment of a lead plaintiff for "each private action arising

22 under [the Exchange Act] that is brought as a plaintiff class action pursuant to the Federal Rules

23 of Civil Procedure." *See* 15 U.S.C. § 78u-4(a)(l); *see also* 15 U.S.C. § 78u-4(a)(3)(B). It provides

24 that within 20 days of the filing of the action, the plaintiff is required to publish notice in a

25 widely circulated business-oriented publication or wire service, informing class members of their

26 right to move the Court, within 60 days of the publication, for appointment as lead plaintiff. *See*

27 15 U.S.C. § 78u-4(a)(3)(A).

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1   Under the PSLRA, the Court is then to consider any motion made by class members and

2 is to appoint as lead plaintiff the movant that the Court determines to be "most capable of

3 adequately representing the interests of class members . . . ." 15 U.S.C. § 78u-4(a)(3)(B)(i).

4 Further, the PSLRA establishes a rebuttable presumption that the "most adequate plaintiff" is the

5 person that:

6   (aa) has either filed the complaint or made a motion in response to a notice
        [published by a complainant]; (bb) in the determination of the court, has the
7   largest financial interest in the relief sought by the class; and (cc) otherwise
        satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.
8

9 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I).

10   Once it is determined who among the movants seeking appointment as lead plaintiff is

11 the presumptive lead plaintiff, the presumption can be rebutted only upon proof by a class

12 member that the presumptive lead plaintiff: "(aa) will not fairly and adequately protect the

13 interests of the class; or (bb) is subject to unique defenses that render such plaintiff incapable of

14 adequately representing the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II); *In re BP, PLC Sec. Litig.*,

15 758 F. Supp. 2d 428, 435 (S.D. Tex. 2010).

16   **B.   Under the PSLRA, Movant Should be Appointed Lead Plaintiff**

17   As discussed below, Movant should be appointed Lead Plaintiff because all of the

18 PSLRA's procedural hurdles have been satisfied, Movant holds the largest financial interest of

19 any movant, and Movant otherwise satisfies Rule 23's typicality and adequacy requirements.

20   **1.   Movant Filed a Timely Motion**

21   Pursuant to the PSLRA, the first plaintiff to file a complaint in the action was required to

22 publish notice within twenty (20) days of its filing. 15 U.S.C. § 78u-4(a)(3)(A)(i). Counsel for

23 first-filed plaintiff Sonny Joyce published notice of the lead plaintiff deadline via *Globe*

24 *Newswire* on May 6, 2022. *See* Ex. A. Consequently, any member of the proposed Class was

25 required to seek to be appointed lead plaintiff within 60 days after publication of the notice, *i.e.*,

26 on or before July 5, 2022. *See* 15 U.S.C. § 78u-4(a)(3)(A)(i)(II). Thus, Movant's motion is

27 timely filed.

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1   Additionally, pursuant to Section 21D(a)(2) of the Exchange Act, Movant timely signed

2 and submitted the requisite certification, identifying all of his relevant Amazon trades during the

3 Class Period, and detailing Movant's suitability to serve as Lead Plaintiff in this case. *See* Ex. B.

4 The PSLRA's procedural requirements have therefore been met**.**

5   **2.   Movant Has the Largest Financial Interest in the Relief Sought by the
                        Class**
6

7   The PSLRA instructs the Court to adopt a rebuttable presumption that the "most adequate

8 plaintiff" for lead plaintiff purposes is the person with the largest financial interest in the relief

9 sought by the class. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(bb). To the best of his knowledge,

10 Movant has the largest financial interest of any Amazon investor or investor group seeking to

11 serve as Lead Plaintiff based on the four factors articulated in *Lax v. First Merchants Acceptance*

12 *Corp.*: (1) the number of shares purchased; (2) the number of net shares purchased (also referred

13 to as "retained shares"); (3) the total net funds expended; and (4) the approximate losses

14 suffered. Nos. 97 C 2715, *et al.*, 1997 WL 461036, at *5 (N.D. Ill. Aug. 11, 1997). In accordance

15 with court nationwide, these *Lax* factors have been adopted by courts in the Ninth Circuit,

16 including in this District. *See, e.g.*, *Cook v. Atossa Genetics, Inc.*, No. C13-1836-RSM, 2014 WL

17 585870, at *3 (W.D. Wash. Feb. 14, 2014); *Reinschmidt v. Zillow, Inc.*, No. 12-2084-RSM, 2013

18 WL 1092129, at *2 (W.D. Wash. Mar. 14, 2013).

19   Overall, during the Class Period, Movant purchased 156 net and 200 total Amazon

20 shares, expended $582,704.64 in net funds and suffered losses of $165,111.09 attributable to the

21 fraud. *See* Ex. B. Movant is presently unaware of any other movant with a larger financial

22 interest in the outcome of this litigation.

23   **3.   Movant Meets Rule 23's Typicality and Adequacy Requirements**

24   The PSLRA also requires that, in addition to possessing the largest financial interest in

25 the outcome of the litigation, the lead plaintiff must satisfy the requirements of Rule 23 of the

26 Federal Rules of Civil Procedure. *See* 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I)(cc); *see also Arciaga v.*

27 *Barrett Bus. Servs., Inc.*, No. C14-5884 BHS, 2015 WL 791768, at *2 (W.D. Wash. Feb. 25,

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1   2015). When assessing a potential lead plaintiff, only Rule 23(a)'s typicality and adequacy

2   requirements are relevant. *See, e.g.*, *Lax*, 1997 WL 461036, at *6.

3   "The test of typicality 'is whether other members have the same or similar injury,

4   whether the action is based on conduct which is not unique to the named plaintiffs, and whether

5   other class members have been injured by the same course of conduct.'" *Richardson v. TVIA*,

6   *Inc.*, No. C 06 06304 RMW, 2007 WL 1129344, at *4 (N.D. Cal. Apr. 16, 2007) (quoting *Hanon*

7   *v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992).

8   Movant's claims are clearly typical of the Class's claims. Movant purchased Amazon

9   common stock during the Class Period, suffered damages as a result of the Company's false and

10   misleading statements, and therefore can assert the Class's claims against Amazon and certain of

11   its officers under the federal securities laws. Because the factual and legal bases of Movant's

12   claims are similar to those of the Class's claims, Movant necessarily satisfies the typicality

13   requirement.

14   With respect to adequacy, Rule 23(a)(4) requires that the representative party will "fairly

15   and adequately protect the interests of the class." Fed. R. Civ. P. 23(a)(4). In assessing whether

16   the adequacy requirement has been met, courts in this Circuit consider whether "the

17   representative plaintiffs and their counsel have any conflicts of interest with other class

18   members" and ask "will the representative plaintiffs and their counsel prosecute the action

19   vigorously on behalf of the class?" *Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003).

20   As evidenced by the representations in his certification, *see* Ex. B, Movant's interests are

21   perfectly aligned with—and by no means antagonistic to—the Class. Contemporaneously with the

22   filing of the instant motion, Movant has submitted a Declaration with additional information about

23   himself, his business background, and experience investing, clearly demonstrating his adequacy to

24   represent class members. Prior to retiring, Movant served as the CEO of a payment processing

25   company for over twenty years. *See* Ex. C. Movant has been investing for approximately forty years

26   *Id*.

27

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1   Movant has also selected and retained highly competent counsel to litigate the claims on

2 behalf of himself and the Class. As explained below in Section II, the Faruqi Firm is highly

3 regarded for its experience, knowledge, and ability to conduct complex securities class action

4 litigation. *See* Ex. D. Consequently, Movant is more than adequate to represent the Class and has

5 every incentive to maximize the Class's recovery.

6   In light of the foregoing, Movant respectfully submits that he is the presumptive Lead

7 Plaintiff and should be appointed Lead Plaintiff for the Action.

8 **II.   MOVANT'S SELECTION OF THE FARUQI FIRM AS LEAD COUNSEL AND
      TERRELL MARSHALL AS LIAISON COUNSEL SHOULD BE APPROVED**
9

10   Pursuant to 15 U.S.C. § 78u-4(a)(3)(B)(v), the Lead Plaintiff is entitled to select and

11 retain Lead Counsel for the Class, subject to the Court's approval. Movant has selected the

12 Faruqi Firm to be Lead Counsel for the Class. The Faruqi Firm is a minority-owned and woman-

13 owned law firm, and, as reflected in the firm's resume, possesses extensive experience

14 successfully litigating complex class actions on behalf of plaintiffs, including securities class

15 actions. *See* Ex. D; *see also Reitan v. China Mobile Games & Entm't Grp.*, 68 F. Supp. 3d 390,

16 401 (S.D.N.Y. 2014) (appointing the Faruqi Firm as sole lead counsel and noting: "Faruqi &

17 Faruqi has extensive experience in the area of securities litigation and class actions. The firm's

18 resume indicates that it has litigated more than ten prominent securities class actions since its

19 founding in 1995. Faruqi & Faruqi achieved successful outcomes in many of these cases."). For

20 example, the Faruqi Firm has previously obtained significant recoveries for injured investors.

21 *See, e.g., Larkin v. GoPro, Inc.*, No. 4:16-cv-06654-CW (N.D. Cal. 2019) (where, as sole lead

22 counsel, the firm obtained final approval of $6.75 million settlement); *In re Avalanche

23 Biotechnologies Sec. Litig.*, No. 3:15-cv-03185-JD (N.D. Cal. 2018) (appointed as sole lead

24 counsel in the federal action, and together with lead counsel in a parallel state action, obtained

25 final approval of a $13 million global settlement); *In re Geron Corp., Sec. Litig.*, No. 3:14-CV-

26 01224-CRB (N.D. Cal. 2017) (where, as sole lead counsel, the Faruqi Firm obtained final

27 approval of a $6.25 million settlement); *In re Dynavax Techs. Corp. Sec. Litig.*, No. 3:13-CV-

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1 02796 (CRB) (N.D. Cal. 2016) (where, as sole lead counsel, the Faruqi Firm obtained final

2 approval of a $4.5 million settlement); and *McIntyre v. Chelsea Therapeutics Int'l, LTD*, No.

3 3:12-cv-00213-MOC-DCK (W.D.N.C. 2016) (where, as sole lead counsel, the Faruqi Firm

4 secured the reversal of the district court's dismissal of the action at the Fourth Circuit, *see Zak v.*

5 *Chelsea Therapeutics Int'l, Ltd.*, 780 F.3d 597 (4th Cir. 2015), and obtained final approval of a

6 $5.5 million settlement).

7   The Faruqi Firm is also currently litigating several prominent securities class actions.

8 *See, e.g., In Re Peloton Interactive, Inc. Sec. Litig.*, No. 1:21-cv-02369-CBA-PK (S.D.N.Y.);

9 *Halman Aldubi Provident and Pension Funds Ltd. v. Teva Pharm. Indus. Ltd.*, No. 20-4660-

10 KSM (E.D. Pa.); *In re Allergan PLC Sec. Litig.*, No. 18 Civ. 12089 (CM) (GWG) (S.D.N.Y.)

11 (appointed sole lead counsel for the class); *Lowthorp v. Mesa Air Grp., Inc.*, No. 2:20-cv-00648-

12 MTL (D. Ariz.) (appointed as sole lead counsel for the class); *In re Tahoe Res., Inc. Sec. Litig.*,

13 No. 2:17-cv-01868-RFB-NJK (D. Nev.) (appointed as sole lead counsel for the class); *In re*

14 *Synergy Pharm., Inc. Sec. Litig.*, No. 1:18-cv-00873-AMD-VMS (E.D.N.Y.) (appointed as co-

15 lead counsel for the class).

16   The Faruqi Firm is a minority-owned and woman-owned[2] law firm, and, as reflected in

17 the firm's resume, possesses extensive experience successfully litigating complex class actions

18 on behalf of plaintiffs, including securities class actions. Not only does the firm have the

19 experience and expertise necessary to obtain significant successes for its clients, it has a

20 demonstrated commitment to diversity and inclusion that clients and judges increasingly seek

21 from the bar.[3] Class members in securities class actions have diverse backgrounds, and that

22 diversity should be reflected in class counsel. Currently, approximately 40% of the firm's

23 partnership positions are held by women and minorities, and the firm is committed to growing

24

25 [2] *See* Ex. E (certificate from Women's Business Enterprise National Council certifying the Faruqi Firm as a woman-owned business).

26 [3] *See* Anne Cullen, More Judges Are Demanding Diversity Among Class Counsel, Law360 (July 16, 2020), https://www.law360.com/articles/1292926/more-judges-are-demanding-diversity-among-class-counsel; Ralph

27 Chapoco, Calls for Lawyer Diversity Spread to Complex Class Litigation, Bloomberg Law (July 30, 2020), https://www.bloomberglaw.com/document/XA1TPNEG000000?bna_news_filter=social-justice&jcsearch=BNA.

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1 this figure in the coming years. *See* https://www.faruqilaw.com

2 /our-attorneys. The Faruqi Firm is proud to be made up of such a diverse group of legal

3 professionals and strongly believes that its clients are better served because of it.

4   Finally, Movant's choice of liaison counsel, the Seattle based law firm Terrell Marshall

5 Law Group, which has substantial experience in class action litigation. *See* Ex. F.

6 <div align="center">**CONCLUSION**</div>

7   For the foregoing reasons, Movant respectfully requests that the Court: (1) appoint him as

8 Lead Plaintiff; (2) approve his selection of the Faruqi Firm as Lead Counsel and Terrell Marshall

9 as Liaison Counsel for the putative Class; and (3) grant such other relief as the Court may deem

10 just and proper.

11 Dated: July 5, 2022   Respectfully submitted,

12

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28 Jerry Hannah's Motion for Appointment of Lead   TERRELL MARSHALL LAW GROUP PLLC
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